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In Victory for WLF, Supreme Court Summarily Reverses Ninth Circuit's Flawed Liability Standard for ERISA Fiduciaries

(*Amgen, Inc. v. Harris*)

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—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—This week the U.S. Supreme Court issued a unanimous, four-page opinion summarily reversing the U.S. Court of Appeals for the Ninth Circuit's deeply flawed decision in *Amgen, Inc. v. Harris*. The Court held that the appeals court applied the wrong pleading standard and thus “failed to properly evaluate the complaint.” The ruling marked a victory for WLF, which filed a brief in the case arguing that the decision below severely compromised the ability of ERISA fiduciaries to determine their legal duties with respect to employee stock funds. ERISA stands for the Employee Retirement Income Security Act.

WLF's brief argued that the Ninth Circuit misconstrued the new heightened ERISA pleading standard announced by the Supreme Court in *Fifth Third Bancorp v. Dudenhoeffer* in 2014. The High Court—which had remanded the *Amgen* case to the Ninth Circuit for reconsideration in the wake of the *Fifth Third* ruling—agreed. As WLF's brief pointed out, an allegation that a prudent fiduciary *might* have reached a contrary conclusion from petitioners is legally insufficient to state a claim.

To avoid dismissal, plaintiffs needed to plausibly allege that no prudent fiduciary could have concluded that removing Amgen stock from the list of its employees' investment options would cause more harm than good to the fund as a whole. In other words, as the Supreme Court explained: “The Ninth Circuit ... failed to assess whether the complaint in its current form ‘has plausibly alleged’ that a prudent fiduciary in the same position ‘could not have concluded’ that the alternative action ‘would do more harm than good.’” After thoroughly evaluating the complaint, the high court was unable to find “sufficient facts and allegations to state a claim for breach of the duty of prudence” under ERISA.

Commenting on the Supreme Court victory, WLF issued the following statement by Senior Litigation Counsel Cory Andrews: “The Supreme Court has reiterated that ERISA complaints must satisfy stringent pleading requirements originally announced in *Fifth Third*. As a result of this prudent decision, Employee Stock Ownership Plans will continue to thrive as Congress intended.”

WLF is a national, public-interest law firm and policy center that devotes a substantial portion of its resources to promoting civil justice reform and reining in excessive litigation.

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